

## Internal Revenue Service

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Department of the Treasury  
Washington, DC 20224

[Third Party Communication:  
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Person To Contact:  
, ID No.

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In Re:

Refer Reply To:  
CC:ITA:5  
PLR-140836-07  
Date:  
December 21, 2007

## LEGEND

Taxpayer:  
Individual:  
Date 1:  
Date 2:  
Date 3:  
Year 1:  
Asset 1:  
Amount 1:  
Amount 2:  
Amount 3:  
X:

Dear :

This is in reply to your request pursuant to § 453(d)(3) of the Internal Revenue Code and § 15A.453-1(d)(4) of the Temporary Income Tax Regulations for consent to revoke an election out of the installment method.

## FACTS

Taxpayer is an S corporation wholly owned by Individual. Taxpayer operated Asset 1. On Date 1, Taxpayer entered into an agreement to sell Asset 1 to a buyer for Amount 1. The buyer made a down payment of Amount 2 on Date 1 and gave a promissory note for Amount 3. The note has a term of X years and requires monthly payments consisting of principal and interest payments.

A return preparer filed Taxpayer's original federal income tax return for Year 1 on Date 2. Taxpayer intended to use the installment method under § 453, but due to a miscommunication problem between Taxpayer and the return preparer, the entire gain from the sale of Asset 1 was reported on Taxpayer's return for Year 1. Shortly

thereafter, Taxpayer realized that the full amount of the gain from the sale of Asset 1 had been included in Year 1. Accordingly, an amended return for Year 1 reporting the sale as an installment sale was filed for Taxpayer on Date 3 without the consent of the Internal Revenue Service. As soon as Taxpayer realized that the filing of such amended return without the consent was improper, Taxpayer submitted this request for a ruling.

### LAW AND ANALYSIS

Section 453(a) provides that, generally, a taxpayer shall report income from an installment sale under the installment method. Section 453(b)(1) defines an installment sale as a disposition of property for which at least one payment is to be received after the close of the taxable year of the disposition.

Section 453(c) provides that, for the purposes of this section, the term “installment method” means a method under which the income recognized for any taxable year from a disposition is that proportion of the payment received in that year which the gross profit (realized or to be realized when the payment is completed) bears to the total contract price.

Section 453(d)(1) provides that a taxpayer may elect out of the installment method. Except as otherwise provided in the Regulations, § 453(d)(2) requires a taxpayer who desires to elect out of the installment method to do so on or before the due date (including extensions) of the taxpayer’s federal income tax return for the taxable year of the sale. Section 453(d)(3) provides that an election made pursuant to § 453(d)(1) may be revoked only with the consent of the Secretary.

Section 15A.453-1(d)(3) provides that a taxpayer who reports an amount realized equal to the selling price including the full face amount of an installment obligation on a timely filed tax return for the taxable year in which the installment sale occurs is considered to have elected out of the installment method.

Section 15A.453-1(d)(4) provides that an election under § 453(d)(1) generally is irrevocable. An election may be revoked only with the consent of the Internal Revenue Service. Section 15A.453-1(d)(4) provides that revocation of an election out of the installment method is retroactive and will not be permitted when one of its purposes is the avoidance of federal income taxes, or when the taxable year in which any payment was received has closed.

In the instant case, Taxpayer represents that its return preparer did not prepare Taxpayer’s Year 1 tax return in accordance with Taxpayer’s intention to report the sale

of its asset under the installment method. As soon as Taxpayer realized that the entire amount of the gain on the sale of Asset 1 had been reported on Taxpayer's original return, it promptly, though improper, acted to file an amended return as if there had been no election out of the installment method. When Taxpayer realized that revoking the election under § 453(d)(1) requires the consent of the Internal Revenue Service, Taxpayer submitted this request for a ruling seeking the consent of the Service for the revocation of the Taxpayer's election out of the installment method.

### CONCLUSION

Based on careful consideration of all of the information submitted and the representations made, we conclude that Taxpayer will be allowed to revoke its election out of the installment sale method with respect to the sale of Asset 1.

Permission to revoke the election out of the installment method of reporting for the sale of Asset 1 is granted for the period that ends 75 days after the date of this letter. If the ruling granted in this letter would have any effect on any amounts reported on Taxpayer's previously filed amended return for Year 1, Taxpayer must file an amended return for Year 1 to reflect the effect of this ruling. If this ruling would have any effect on any returns previously filed by Individual, Individual must file amended returns for such years to reflect the effect of this ruling. If any amended returns are required, a copy of this letter ruling must be attached to each of the amended returns.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter, including the computation of gain to be reported under the installment method.

This ruling is directed only to Taxpayer. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their returns that provide the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by

an appropriate party. This ruling is conditioned upon the accuracy of that information and those representations. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely yours,

George F. Wright  
Senior Technician Reviewer, Branch 5  
Office of Associate Chief Counsel  
(Income Tax & Accounting)